

Message Text

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ACTION IO-14

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FODAG

EO 11652: NA

TAGS: UN, AORG, FAO

SUBJ: FAO TAX REIMBURSEMENT POLICIES

REF: (A) STATE 289432 (B) ROME 20138

1. FAO HAS RESPONDED IN MEMO FROM SKOUFIS TO HIGGINSON TO QUESTIONNAIRE ON FAO TAX REIMBURSEMENT POLICIES. ANSWERS ARE KEYED TO QUESTIONS IN REFTEL A AND ARE ALONG SAME LINES AS REPORTED IN REFTEL B. ANNEXES REFERRED TO ARE BEING POUCHED IO/AGR - BYRNES. BEGIN TEXT.

1. FAO'S AUTHORITY TO REIMBURSE AMERICAN EMPLOYEES FOR TAXES PAID ON EMOLUMENTS IS BASED ON THE TAX EQUALIZATION FUND ESTABLISHED WITHIN THE ORGANIZATION.

2. THE ESTABLISHMENT OF THE TAX EQUALIZATION FUND WAS AUTHORIZED BY RESOLUTION NO. 41/61, CONTAINED IN THE REPORT OF THE 11TH SESSION OF THE CONFERENCE, NOVEMBER 1961. THE FUND WAS FIRST PUT INTO EFFECT AS OF 1 JANUARY 1972 (SEE ANNEX A).

FAO MANUAL CHAPTER III - PERSONNEL, SECTION 309 - INCOME TAX, DATED 28 MAY 1975, SETS FORTH STAFF RULES AND ADMINISTRATIVE POLICIES AND PROCEDURES COVERING FAO POLICY ON TAX REIMBURSEMENT (SEE ANNEX B).

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3. FAO AS AN ORGANIZATION DOES NOT REPEAT NOT AUTHORIZE

(A) FULL LUMP SUM PENSION PAYMENTS, OR

(B) ONE-THIRD LUMP SUM PENSION PAYMENTS

BUT RATHER THE SECRETARY OF THE FAO STAFF PENSION COMMITTEE ON BEHALF OF THE UNITED NATIONS JOINT STAFF PENSION FUND (UNJSPF) (SEE ANNEX C FOR RELEVANT FORMS). PAYMENTS ARE CERTIFIED BY THE SECRETARY OF THE UNJSPF IN ACCORDANCE WITH

ARTICLE 7 (C) OF THE FUND'S REGULATIONS (SEE ANNEX D). FULL LUMP SUM PENSION PAYMENTS UNDER THIS PROCEDURE HAVE BEEN PAID SINCE FAO JOINED THE UNJSPF ON 1 APRIL 1950. ONE-THIRD LUMP SUM PAYMENTS HAVE ALSO BEEN PAID SINCE THAT DATE.

(C) LUMP SUM DEATH BENEFIT IS PART OF THE FAO EMOLUMENTS SYSTEM WHICH WAS ESTABLISHED ON 1 SEPTEMBER 1958 AND PAYMENTS HAVE BEEN AUTHORIZED BY FAO SINCE THAT DATE.

4. FAO HAS UNDER CURRENT CONSIDERATION THE DECISION TO REIMBURSE EMPLOYEES WHO WERE TAXED ON (A) FULL LUMP SUM PENSION PAYMENTS AND (B) ONE-THIRD LUMP SUM PENSION PAYMENTS. TAXES PAID ON (C) LUMP SUM DEATH BENEFITS HAVE BEEN REIMBURSED SINCE INTRODUCTION OF THE BENEFIT ON 1 SEPTEMBER 1958 FOR PARTIES WHICH ARE NOT SUBJECT TO THE CONVENTION ON PRIVILEGES AND IMMUNITIES.

5. THE ONLY PARTY TO THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES WE KNOW OF WHICH EXPRESSLY EXEMPTS FROM ITS NATIONAL TAXATION ANY FULL OR PARTIAL LUMP SUM PENSION PAYMENT IS AUSTRIA. WE ASSUME OTHER PARTIES DO BUT SPECIFICS ARE UNKNOWN TO FAO.

WITH REGARD TO LUMP SUM BENEFIT, U.S.A. IS THE ONLY COUNTRY WE KNOW OF WHICH TAXES THIS BENEFIT. ALL OTHER PARTIES TO THE CONVENTION CONSIDER THIS BENEFIT PAYMENT EXEMPT FROM TAX SINCE LUMP SUM DEATH BENEFIT IS PART OF FAO'S EMOLUMENT SYSTEM.

6. FAO IS NOT REPEAT NOR AWARE OF ANY PARTY THAT HAS INTERPRETED THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF LIMITED OFFICIAL USE

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THE SPECIALIZED AGENCIES AS REQUIRING EXEMPTION FROM NATIONAL TAXATION OF PERIODIC PENSION PAYMENTS.

7. FAO HAS NEVER REIMBURSED FOR TAXES ON PERIODIC PENSION PAYMENTS.

8. THE ONLY PARTY TO THE CONVENTION WHICH FAO IS AWARE THAT EXEMPT FROM TAXATION PERIODIC PENSION PAYMENTS IS AUSTRIA. WE ASSUME THAT OTHER PARTIES DO TAX BUT SPECIFICS ARE UNKNOWN TO FAO.

9. FAO INTENDS TO FOLLOW THE UNITED NATIONS POSITION WITH REGARD TO LUMP SUM PAYMENTS RECEIVED AS A WITHDRAWAL SETTLEMENT FROM THE UNJSPF WHICH ARE CONSIDERED BY THE UN TO CONSTITUTE PART OF TERMINAL EMOLUMENTS. ARTICLE VI, SECTION 19 (B) OF THE CONVENTION ON PRIVILEGES AND IMMUNITIES PROVIDES THAT FAO OFFICIALS SHALL QUOTE ENJOY THE SAME EXEMPTIONS FROM TAXATION IN RESPECT OF THE SALARIES AND EMOLUMENTS PAID TO THEM BY THE SPECIALIZED AGENCIES AND ON THE SAME CONDITIONS AS ARE ENJOYED BY OFFICIALS OF THE UNITED NATIONS. END INNER QUOTE

10. FAO'S COPE OF AUTHORITY TO REIMBURSE TAXES ARE THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES; THE CONFERENCE RESOLUTIONS CITED IN PARAGRAPH 1 ABOVE (SEE ANNEX A); FAO STAFF RULE 302.315 (SEE ANNEX B), AND IN ADDITION, THE HEADQUARTERS AGREEMENT

BETWEEN THE GOVERNMENT OF ITALY AND FAO, SECTION 27 (D) (E)
(SEE ANNEX E) IN THE CASE OF TIALIAN PROPERTY TAX IMPOSED
ON FAO STAFF MEMBERS.

11. FAO REQUIRES THAT EMPLOYEE SUBMIT DOCUMENTARY SUPPORT
WITH CLAIMS AND VERIFIES THE CORRECTNESS OF THE AMOUNTS
CLAIMED. THIS WORK IS PERFORMED IN THE FAO LIAISON OFFICE
FOR NORTH AMERICA, 1776 F. STREET, N.2., WASHINGTON, D.:.
20437. PROCEDURES CURRENTLY IN EFFECT ARE OUTLINED IN FAO
ADMINISTRATIVE CIRCULAR NO. 76/87 ADD. 1, DATED 21 JANUARY 1977
(SEE ANNEX F). END TEXT

2. SKOUFIS WOULD APPRECIATE HEARING FROM USG ON REIMBURSEMENT OF
US TAXES ON ONE-THIRD LUMP-SUM PENSION PAYMENTS. HE
IS ALSO COORDINATING WITH OTHER UN AGENCIES. SINCE SAOUMA
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DECLINED TO COMMIT FAO UNTIL HE HAS USG'S POSITION, FAO IS
HOLDING UP A DECISION WHICH HAS A SUBSTANTIAL EFFECT ON A FEW
AMERICANS AT RETIREMENT AGEMGARDNER

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